

BEFORE THE
DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS
OF THE STATE OF HAWAII

In the Matter of)	
)	DECISION AND ORDER NO. 310
)	
)	
TIME WARNER ENTERTAINMENT)	
COMPANY, L.P.)	
)	
Capital Payments made to 'Olelo - The)	
Corporation for Community Television,)	
for the period 2004 through 2009)	
)	
)	
)	

DECISION AND ORDER NO. 310

I. INTRODUCTION

- A. On or about January 27, 1993, the State of Hawaii ("**State**") Department of Commerce and Consumer Affairs ("**Department**") issued Decision and Order No. 154 ("**D&O 154**") that amended Time Warner Entertainment Company, L.P.'s ("**TWE**") cable television franchise. Sections 5.4 ("Facilities and Equipment"), 5.10 ("Reopening of Access Requirements"), and 5.11 ("Capital Contributions") specified TWE's franchise obligations relating to capital contributions for public, educational, and governmental ("**PEG**") access equipment and facilities.

- B. On or about May 10, 1999, the Department issued Decision and Order No. 243 ("**D&O 243**") that amended TWE's Oceanic Cable cable television franchise for the island of Oahu to include the Hawaii Kai cable system previously held by the former TCI of Hawaii, Inc. Among other requirements, the franchise term for TWE's Oceanic Cable franchise for the island of Oahu was extended for one (1) additional year to December 31, 2009.

- C. On or about August 11, 2000, the Department issued Decision and Order No. 261 ("**D&O 261**") that approved the transfer (change in control) of the cable television franchises held by TWE to AOL Time Warner Inc., subject to certain conditions. Section 5.1(g) ("Access Operating Fee") states in relevant part that "[w]ith respect to capital funds for facilities and equipment for PEG access use, the designated access entity may submit

a written request for capital funds for the period January 1, 2004 through the remaining franchise term to the Director for review and approval. The written request for capital funds may be submitted prior to January 1, 2003 but not before January 1, 2002."

- D. On or about January 2, 2004, TWE and Olelo – The Corporation for Community Television ("Olelo"), the PEG on Oahu, submitted to the Department a letter dated December 22, 2003 which was signed by both entities and requested approval of a mutually agreed to payment schedule for capital funds for PEG access equipment and facilities. TWE and Olelo indicated that they had reached an agreement that stipulates capital fund payments by TWE to Olelo in the amount of EIGHT HUNDRED TWENTY-THREE THOUSAND AND NO/100 DOLLARS (\$823,000.00) per year for the duration of TWE's current cable television franchise for the island of Oahu. These annual payments shall begin in January 2004 and end with the payment due in January 2009.
- E. After carefully considering the TWE's and Olelo's joint request in their December 22, 2003 letter, the Director grants this request, and believes that it is in the best interest of subscribers to approve the capital fund payments described herein.

II. **ORDER**

NOW, THEREFORE, the Director hereby orders that:

- A. TWE shall make capital fund payments to Olelo in the amount of EIGHT HUNDRED TWENTY-THREE THOUSAND AND NO/100 DOLLARS (\$823,000.00) per year;
- B. The first of these annual payments shall be due on January 31, 2004 with the final annual payment due on January 31, 2009; and
- C. The remaining terms and conditions of D&O 154, D&O 243, and D&O 261 shall continue to remain in full force and effect.

DATED: Honolulu, Hawaii, January 22, 2004.



MARK E. RECKTENWALD
Director of Commerce and Consumer Affairs